

LABOUR DEPARTMENT

The 22nd November, 1979

No. 11(112)-3Lab-79/13882.—In pursuance of the provision of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s. Pawan Textiles Industries, Panipat.

BEFORE SHRI GURMESH PARKASH, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 307 of 1978.

between

SHRI RAMA SHANKAR, WORKMAN AND THE MANAGEMENT OF M/S. PAWAN TEXTILES INDUSTRIES, PANIPAT.

Present :

No-one for the workman.

Shri Surinder Kaushal, for the management.

AWARD

This reference has been made over to the Labour Court, Rohtak, by the Hon'ble Governor of Haryana,—vide his order No. ID/KNL-73-78, under section 10(1)(c) of the Industrial Disputes Act for adjudication the dispute existing between the workman Shri Rama Shankar and the management of M/s. Pawan Textiles Industries, Panipat. The terms of the reference was whether the termination of service of Shri Rama Shankar was justified and in order? If not, to what relief is he entitled?

After receiving this reference notices were issued to both the parties. The workman filed its statement of claims before this Court claiming that he was employed as a chowkidar in this concern and has been illegally terminated by the management. The management filed its written statement before this Court and denied all the allegations levelled against them and claimed that the workman was never terminated but he himself resigned and has taken full and final dues from the management. On 25th June, 1979 the management stated before this Court that they have settled the dispute with management. On this representative of the workman was directed to bring the workman before this Court so that it can be ascertained whether the settlement has been arrived or not

and notice was also issue to the workman. Mr. Raghubir Singh, General Secretary of the Union on where address the notice was sent appeared before this Court and stated that he has no instruction from the workman and his whereabouts are not known and he do not want to appear from the side of workman. The address of the workman even in the reference is of union's address. In these circumstances it was ordered that *ex parte* proceedings be held against the workman.

'The management examined Shri Inder Mohan Gupta partner of the firm who stated that the workman was a gate-keeper in their concern and the workman resigned from this post from 7th June, 1978,—vide his resignation letter Ex. MM-1/A and he collected all dues,—vide Ex. MM-1/B. Both the exhibits bears the signatures of the workman and in Ex. MM-1/B it is written that workman has received his full and final payment. In these circumstances I see no reason to disbelieve the statement of the witness Shri Inder Mohan Gupta and exhibits MM-1/A and MM-1/B and hold that there was no termination of the service of the workman but he resigned himself and he is not entitled to any relief. I answer this reference while returning this award in these terms.

Dated the 2nd November, 1979.

GURMESH PARKASH,
Presiding Officer,
Labour Court, Rohtak.

Endst. No. 3935, dated the 8th November, 1979.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

GURMESH PARKASH,
Presiding Officer,
Labour Court, Rohtak.

No. 11(112)-3Lab-79/13890. In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s. Kay Iron Works Pvt. Ltd., Yamuna Nagar, (ii) Chanderpur Works Yamuna Nagar.

BEFORE SHRI GURMESH PARKASH,
PRESIDING OFFICER,
LABOUR COURT, ROHTAK
Reference No. 37 of 1978
between

SHRI RAFIUZZAMAN, WORKMAN AND
THE MANAGEMENT OF (i) M/S. KAY
IRON WORKS PRIVATE LTD.,
YAMUNA NAGAR AND (ii) M/S.
CHANDERPUR WORKS,
YAMUNA NAGAR

Present:

No one for the workman.

Shri A. K. Gupta for the management.

AWARD

This reference has been made over to this Labour Court by the Hon'ble Governor of Haryana,—*vide* his order No. ID/Amb/9-78, dated 24th February, 1978 under section 10(1)(c) of the Industrial Disputes Act for adjudication the dispute existed between Shri Rafiuzzaman workman and M/s. Kay Iron Works Pvt. Ltd., Yamuna Nagar and M/s. Chanderpur Works, Yamuna Nagar. The term of reference was whether the termination of service of Shri Rafiuzzaman was justified and in order? If not to what relief he is entitled?

After receiving this reference notices were issued to the parties and both the parties appeared before this Court in due course. The workman submitted his statement of claim before this Court stating that he was employed by M/s. Kay Iron Works Pvt. Ltd., as a clerk at the rate of Rs. 200/- per month with free house accommodation on 1st September, 1976 and after nine months of his service in this concern he was transferred to the other concern namely M/s. Chanderpur Works, Yamuna Nagar on the same terms and conditions. He also stated that M/s. Chanderpur Works, Yamuna Nagar belongs to the management of M/s. Kay Iron Works, Yamuna Nagar. He further submitted that M/s. Chanderpur Works, Yamuna Nagar terminated his services on 22nd September 1977 without serving any written notice to him. He made the complaint to the Labour Inspector and served demand notice on the management. But the management did not reply to this demand notice. He

claimed that action of the management was quite illegal and un-justified and mandatory provisions of the Industrial Disputes Act has not been followed. The respondent management No. 1 filed their written statement contraverting all the allegations levelled against them by the workman and stated that it is true that the workman was employed by this company on 1st September, 1976. His appointment was on probation for six months and probation was further extended for three months. They alleged that the workman left the employment on his own accord before expiry of probation period. They also stated that M/s. Chanderpur Works, Yamuna Nagar has no concern with them. They submitted before this court some photostat copies of certain documents concerning with the appointment and resignation of the workman Shri Rafiuzzaman. The respondent management No. 2 also filed written statement before this Court and stated that the workman was appointed in their concern on probation on 31st May, 1977. His appointment was a fresh appointment on his own application and his service was terminated on 22nd September, 1977 because his work was not satisfactory. They also submitted various documents in proof of their contentions. On the pleadings of the parties following issues were framed:—

1. Whether the workman was appointed on probation for the period of 9 months by respondent No. 1 and he left the service after the completion of the probation period after clearing his accounts voluntarily?
2. Whether the workman was employed by respondent No. 2 on probation for six months and his services were terminated during the probation period as his work was found un-satisfactory?
3. If issue No. 1 and 2 not proved as per reference?

The respondents were directed to produce their evidences. In the meantime the workman stopped pursuing his case and *ex parte* proceedings were held

against him. The respondent management examined Shri Ram Avtar, Manager of respondent No. 1 as R.W. 1. He stated that the workman was employed on probation in 1976,—vide his appointment letter Ex. R-1 and,—vide Ex. R-2 his probation period was extended for another three months. He further stated that,—vide application Ex. R-3 the workman himself applied to the management that his accounts should be cleared today, on which a clearance report was prepared by the various head of the departments of his company. The clearance report is Exhibit R-4. He further stated that,—vide Exhibit R-5 the workman solemnly declared that there remains no dispute or claim with the factory under labour law and he has been paid fully and finally and has settled all accounts with the factory. RW-1 also produced Exhibit R-6 the voucher by which Rs. 138.65 P. were paid to the workman in May, 1977. Details of the payment is on Exhibit R-7 and Exhibit R-6 is the receipt signed by the workman of the payment. RW-1 also stated that the respondent management has no concern with M/s. Chanderpur Works, Yamuna Nagar which is a firm. RW-1 further asserted that this workman was never transferred to M/S. Chanderpur Works and this workman left his service on his own accord. Shri Suresh Chander Sharma, Assistant Factory Manager of M/s. Chanderpur Works appeared as R.W. 2. He stated that the workman applied to the management,—vide Exhibit R-8 for the post of a clerk in his concern. On which a printed application form was supplied to him and he returned that form after filling on 31st May, 1977. This form is Exhibit R-9 and it also carries photograph of the workman. He stated that Exhibit R-12 is the appointment letter and Exhibit R-11 is a form to be filed by the candidate who join the service in their firm stating his particulars. He further stated that Exhibit R-13 and Exhibit R-14 are the complaints which the management received from the various officers regarding dis-satisfactory work of this workman. On these complaints the manager of this firm issued a warning,—vide Exhibit R-15 which was duly

received by the workman and this Exhibit R-15 also bears the signatures of the workman at mark "A". Despite of the warning the workman did not improve his work satisfactorily on which the manager gave 15 days notice to the workman,—vide Exhibit R-17 for termination of service during the probation period. After this the workman obtained clearance certificate,—vide Exhibit R-18. RW-2 further stated that the employment of this workman was a fresh one and he did not come to our factory on transfer.

No evidence has been led by the workman in this case. *Ex parte* proceedings were initiated against the workman on 22nd May, 1979 by the old order of my learned predecessor. Now I give my finding issuewise:—

ISSUE NO.1:

The respondent management has produced R.W. 1 Shri Ram Avtar, Manager of their concern. They have also produced Exhibit R-1 which is the appointment letter of the workman and in which it is mentioned that the appointment of the workman Shri Rafiuzzaman, was on probation for six months. Vide Exhibit R-2 the probation period of the workman was extended for another three months on 23rd February, 1977. Exhibit R-3 is an application made by the workman himself to the management of the respondent No. 1 that his accounts should be cleared immediately. He undertook that he will return the furniture and identity card in a day or so. This application bears the signature of the workman and it was written on 27th May, 1977. Considering this application there remains little doubt that the workman was transferred to another concern. It has become clear from Exhibit R-1 and R-2 that this appointment was on probation. The workman also obtained the clearance slip,—vide Exhibit R-4 and gave solemnly declaration on 27th May, 1977 that he has settled his accounts fully and finally with the respondent No. 1. This declaration also bears the signatures of the workman. He also received Rs. 138.55 P.—vide Exhibit R-7 and R-6 on 27th May, 1977. From the abovementioned record and

the exhibits it becomes very much clear that this workman was appointed on probation by the respondent management No. 1 and he left his service on his own accord, and has also fully and finally settled all of his claim with the company,—*vide* Exhibit R-5. On the other hand the workman has produced nothing in his evidence to contradict these documents and statement of witness. Therefore, I come to this conclusion that the workman left his service on his own accord. Therefore, I decide this issue No. 1 against the workman and in favour of the respondent No. 1.

ISSUE NO. 2 :

The respondent No. 2 produced Shri Suresh Chander Sharma as R.W. 2. He has clearly stated that the workman applied to his concern on a plain paper and afterwards on a printed form and he was appointed on probation and his service was terminated after giving him 15 days notice because his work was not satisfactory. He produced in original the application made by the workman. It clearly shows that he applied for the post of clerk and he was not transferee from the respondent No. 1. This application bears the signatures of the workman also. This application is R-8. The management No. 2 supplied a printed form to the workman which was duly filled by him on 3rd May, 1977 and this form also carried photograph of the workman. In this form the workman has clearly stated that he was previously employed with the respondent management No. 1 and he did not state that he has come to this firm on transfer. This printed form Exhibit R-9 also bears the signatures of the workman. Exhibit R-11 is a form on which the particulars of the candidate is written. He was appointed as a tool room clerk at Rs. 200/- per month. This letter also bears the signature of the workman. Exhibit R-12 is the appointment letter which was issued on 31st May, 1977 to the workman by the respondent management No. 2 and there is clearly written on it that the appointment of the workman is on probation at Rs. 200/- per month from 31st May, 1977 for a period of six

months. This letter also bears the signature of the workman. All these documents clearly indicate that the appointment of the workman with the respondent management No. 2. was on probation and for a period of six months. Now I come to the second part of the issue No. 2, Exhibit R-3 is a complaints made to the managers by the Supervisor against this workman stating that this workman is not serious about his duties. Exhibit R-14 is also complaint against this workman by Shri D. S. Dutta to the manager stating that this workman is not doing his duties satisfactorily and whenever he goes to tool room for checking he misbehave with him. This complaint was made on 25th July, 1977. On this complaint the manager of the management No. 2 warned the workman that he should be careful in future and improve his work within 15 days failing which suitable action will be taken against him. The workman received the original letter of warning and Exhibit R-15 which bears the signature of the workman in its copy. On 31st August, 1977 A. F. M. Shri Suresh Chand made a complaint against this workman regarding his dis-satisfactory work to the manager. On receiving this the manager gave a clear cut 15 days notice to the workman Shri Rafiuzzaman stating that despite of the previous letter he did not improve his work and in these circumstances his services will be terminated on 22nd September, 1977. The workman received the original if this letter and the carbon copy which bears the signature of workman is Exhibit R-17. On 22nd September, 1979,—*vide* Exhibit R-18 this workman obtained a clearance chit and left the service. From the perrusal of the documents, I come to clear cut conclusion that the service of the workman was terminated because his work was not satisfactory and this was well wirn in the perview of the terms and conditions of his appointment. From the above discussion it is clear that the appointment of workman was on probation for six months with the respondent No. 2 and his service was terminated because his work was not satisfactory. So I decide this issue

against the workman and in favour of the management.

ISSUE No. 3:

As the issue No. 1 and 2 has already been decided against the workman. Therefore, it can be safely held that the termination of service of Shri Rafiuzzaman was justified and in order.

In the light of the above findings on all the issues I, hereby give my award on the reference numbered above as that the termination of service of Shri Rafiuzzaman was justified and in order and he is not entitled for any relief. Keeping in view the circumstances of this case, the parties will bear their own costs.

Dated 25th October, 1979.

GURMESH PARKASH,
Presiding Officer,
Labour Court Rohtak.

Endorsement No. 3943, dated the 8th November, 1979.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

GURMESH PARKASH,
Presiding Officer,
Labour Court Rohtak.

No. 11(112)-3Lab-79/13891.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s. The Controller of Printing and Stationery, Haryana, Chandigarh.

BEFORE SHRI GURMESH PARKASH, PRESIDING OFFICER, LABOUR COURT, ROHTAK.

Reference No. 256 of 78.

Between

SHRI BANARSI DASS, WORKMAN AND THE
MANAGEMENT OF M/S. THE CONTROLLER
OF PRINTING AND STATIONARY
HARYANA, CHANDIGARH.

Present:—Shri Madhu Sudan, for the workman.

Shri Nand. Kishore, for the respondent management.

AWARD

This reference has been made over to this Labour Court by the Hon'ble Governor of Haryana,—vide his order No. ID/Amb./49/78, under section 10(1)(c) of the Industrial Disputes Act for adjudication the dispute existing between the workman Shri Banarsi Dass and the management of M/s. The Controller of Printing and Stationery, Haryana, Chandigarh. The terms of reference was whether the termination of service of Shri Banarsi Dass was justified and in order? If not, to what relief he is entitled?

After receiving this reference notices were sent to both the parties and both the parties appeared before this Court through their authorised representative. The workman filed the claim statement, and the management filed the written statement against the claim statement and the case was fixed for the rejoinder and issues, when the representative of the workman made a statement before this Court that the workman has died and his legal representative does not want to continue it. The representative of the management has also made a similar statement stating that the workman has died. In these circumstances I think the demand raised by the workman has become infructuous due to the death of the workman and as his heirs do not want to pursue the matter for this reason they are also not entitled to receive any relief. Hence there remains no dispute between the workman and the management requiring adjudication I answer this reference while returning this award in these terms.

Dated the 25th October, 1979.

GURMESH PARKASH,
Presiding Officer,
Labour Court, Rohtak.

Endorsement No. 3944, dated the 8th November, 1979.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under section 15 of Industrial Disputes Act.

Dated the 25th October, 1979.

GURMESH PARKASH,
Presiding Officer,
Labour Court, Rohtak.

The 23rd November, 1979.

No. 11(112)-3Lab-79/15217.—In pursuance of the provision of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following

award of the Presiding Officer, Industrial Tribunal Faridabad in respect of the dispute between the workman, Shri Babu Lal and the management of M/s. Frick India Ltd., Mathura Road, Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL, TRIBUNAL HARYANA, FARIDABAD.

Reference No. 264 of 1979.

Between

SHRI BABU LAL, WORKMAN AND THE MANAGEMENT OF M/S. FRICK INDIA LIMITED MATHURA ROAD, FARIDABAD.

Present:—Shri P. K. De, for the workman.
None, for the management.

AWARD

By order No. FD/131-79/36070, dated 21st August, 1979, the Governor of Haryana referred the following dispute between the management of M/s. Frick India Limited, Mathura Road, Faridabad and its workman Shri Babu Lal, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Babu Lal was justified and in order? If not to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The workman appeared but the management did not appear despite service of notice. They were proceeded against *ex-parte* and the case was fixed for the *ex-parte* evidence of the workman. The workman examined himself as his own witness and stated that he was employed with the management since 1972. His services were terminated unjustifiably, without any reason or fault and he was still unemployed. He did not make any efforts to get some fresh job but he again stated that he had made efforts to get a job but could get none.

In the circumstances, I believe in the statement of the witness and give my award that the termination of services of the workman concerned was neither justified, nor in order. He is entitled to reinstatement with continuity of

service but with half back wages as the statement on the point of his efforts for getting fresh job is not convincing.

Dated the 6th November, 1979.

NATHU RAM SHARMA,
Presiding Officer, Industrial
Tribunal Haryana, Faridabad.

Endorsement No. 1109, dated the 16th November, 1979.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,
Presiding Officer, Industrial
Tribunal Haryana, Faridabad.

No. 11(112)-3Lab-79/15219.—In pursuance of the provision of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s. Rubber Udyog Vikas, Pvt. Ltd., Ballabgarh.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL, TRIBUNAL HARYANA, FARIDABAD.

Reference No. 200 of 1979.

between

SHRI MOHMED SHARIF WORKMAN AND THE MANAGEMENT OF M/S. RUBBER UDYOG VIKAS PRIVATE LIMITED BALLABGARH.

Present:—Shri P. K. De, for the workman.

Shri Satish Ahuja, for the management.

AWARD

By order No. 31-79/31290 dated 9th July, 1979 the Governor of Haryana referred the following dispute between the management of M/s. Rubber Udyog Vikas Private Limited Ballabgarh and its workman Shri Mohmed Sharif, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Mohmed Sharif was justified and in order? If not to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. But the dispute was settled. The settlement was admitted by both the parties which is Ex. MW-1. I give my award in terms of the settlement. The settlement shall form the award.

Dated the 13th November, 1979.

NATHU RAM SHARMA,
Presiding Officer, Industrial
Tribunal, Haryana, Faridabad.

Endorsement No. 1107, dated the 16th November, 1979.

Forwarded (four copies) to the Secretary to Government Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,
Presiding Officer, Industrial
Tribunal, Haryana, Faridabad.

The 27th November, 1979

No. 11(112)-3Lab-79/15569.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s The Jagadhri Co-op. Marketing-cum-Processing Society, Jagadhri:—

BEFORE SHRI GURMESH PARKASH, PRESIDING OFFICER, LABOUR COURT, ROHTAK.

Reference No. 72 of 1976

between

SHRI SUBHASH CHANDER, WORKMAN AND
THE MANAGEMENT OF M/S. THE
JAGADHRI CO-OP. MARKETING-CUM-PRO-
CESSING SOCIETY LTD., JAGADHRI.

Present:—

Shri Madhu Sudan Saran, for the workman.
Shri Subhash Chander, for the respondent.

AWARD

This reference has been made over to me by the Hon'ble Governor of Haryana,—vide his order No. ID/Amb-B-76, under section 10(1)(c) of the Industrial Disputes Act for adjudication, the dispute existing between the workman Shri Subhash

Chander and the management of M/s. The Jagadhri Co-op. Marketing-cum-Processing Society Ltd., Jagadhri. The term of the reference was whether the termination of the service of Shri Subhash Chander was justified and in order? If not, to what relief he is entitled?

After receiving this reference notices were issued to both the parties and the workman appeared before this Court through his authorised representative and filed the claim statement in support of his dispute. He maintained in his claim statement that he was appointed in the respondent management as a clerk on 14th May, 1969 on a permanent job as a clerk-cum-Typist and his service was terminated by way of retrenchment on 31st May, 1979, without following the conditions mentioned in 25-F of the Industrial Disputes Act. His retrenchment is illegal and void ab initio. He further maintained that when he was retrenched his pay was Rs. 425 per month. On the other hand the management filed the written statement in support of their pleas and maintained that the service of the workman was retrenched on his own request because he was not doing his work properly and he had embezzled Rs. 700 out of the society's fund. There pleas is that the workman requested to the management that no action should be taken against him for this embezzlement and he be retrenched so that he may not suffer the benefit of provident fund and he also agreed that he will not claim for re-employment. The workman also filed the replication and denied all these allegations levelled against him in the written statement. On the pleadings of the parties following issues were framed by my learned predecessor:—

1. Whether the termination of the service of the workman is justified and in order? If not, to what relief he is entitled?

2. As per reference?

The management examined four witnesses in support of their pleas and filed documents Ex. M-1 to Ex. M-6. The workman examined himself as WW-1, and filed the order,—vide which his service were retrenched as W-1. This order is as follows:—

Reference No. 987—994, dated 31st May, 1976.

ORDER

According to the report of the sub-committee, dated 3rd May, 1976, constituted by the Board of Directors on 9th April, 1976, for the reduction of surplus staff of the society and in the view of

the decision of the board of directors on 29th May, 1976, as the HAFED has started its own R.H.A. at Jagadhri. The work has reduced and the staff has become surplus. In view of this, the following members of the staff are hereby terminated with immediate effect after giving them one month's advance pay. They are requested to leave their charges at once upto 31st May, 1976, afternoon.

S.No.	Name of staff member	Post.
1.	Shri Subhash Chander	Typist.
2.	Shri Jagdish Chander	Salesman.
3.	Shri Aji Singh	Salesman.
4.	Shri Surinder Kumar	Peon.
5.	Shri Suresh Kumar	Gateman.
6.	Shri Suresh Paul	Saleman.
7.	Shri Janak Singh	Chowkidar.
8.	Shri Jai Paul	Chowkidar.

(Sd.) Manager,

The Jagadhri Co-op. Marketing-cum-Processing Society Ltd., Jagadhri.

Mr. Ran Singh, Ex-Chairman of the respondent management (Society), who was examined as MW-2 has stated in examination-in-chief that the service of the workman was retrenched though it was on his own request and he also agreed with the defence pleas that some clerks junior to this workman were retained in service while retrenching the service of this workman and some new persons were appointed after the retrenchment and one Shri Suresh Paul, Clerk, who was junior to the workman and whose service was also retrenched has also been re-appointed in the society. Similarly MW-3, Ex-Director of the respondent society also deposed before this Court in examination-in-chief that the service of this workman was retrenched though it was on his own request. He agreed in cross-examination that no enquiry, no charge-sheet and show-cause notice was issued to this workman before termination. On the other hand the order by which service of this workman was terminated clearly shows that this retrenchment has no concern with the embezzlement case and nowhere it is written that this retrenchment is being made on the request of the workman himself. By this order the services of eight persons have been terminated and it can not be maintained that by the request of Shri Subhash Chander, the services of other

persons were also retrenched. So it is very much clear that the service of this workman was retrenched by the management on the ground that the work of the society has been reduced and staff has become surplus, no other factor led them for retrenching the service. Now, before discussing the legality of this order it is very much necessary to right down the section 25-F of the Industrial Disputes Act and the some law laid down by the various High Courts and by the Supreme Court:—

25-F. No workman employed in any industry, who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- (a) The workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice ;

Provided that no such notice shall be necessary if the retrenchment is under an agreement, which specifies a date for the termination of service;

- (b) The workman has been paid at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of service or any part thereof in excess of six months ; and
- (c) Notice in the prescribed manner is served on appropriate Government.

The Hon'ble Supreme Court in State of Bombay in various hospital Mazdoor recorded in 1960-I-LLJ-251 and in the case of workmen of Subong Tea Estate V/S. Subong Tea Estate-1964-I-LLJ-333, page has held that the condition precedent prescribed by section 25-F has got to be followed and if the said mandatory provisions were not followed then the order of termination becomes invalid and inoperative in law and the Hon'ble Supreme Court in the case of National Iron and Steel Co. versus State of West Bengal AIR—Supreme Court, page 1206 has held that there the mandatory provisions of section 25-F were not complied with, the order itself becomes invalid and inoperative and as such it is not necessary to consider the other points.

Replying on the above cited cases the Hon'ble Judge of the Calcutta High Court in *B. M. Gupta versus State of West Bengal* held, that if the conditions precedent for an order of retrenchment under section 25-F are not fulfilled the order of retrenchment is not effective at all; and the same is *void ab initio* and the relationship between the employer and the employee is not affected by such void retrenchment order and the employee continues to be in service despite the purported order of retrenchment.

At the end I will like to write down the law laid down by Hon'ble Judge of Gujrat High Court in the case of *Ambala Shivalal versus D.M. Vin.-1964-II-LLJ-271*, if the condition precedent under section 25-F of the Act is not complied with the dismissed employee is entitled to receive his wages on the basis that he continued in service all along.

In the light of above law laid down by the Hon'ble Supreme Court and various High Courts it has become now necessary to decide whether in this case the requirement and conditions precedent to the retrenchment as laid down in 25-F has been followed or not. By the statement of the workman, who was examined as WW-1 and from the Ex. W-1, which is the order passed by the society terminating the service of the workman, it has become very much clear that no retrenchment compensation was paid to the workman before terminating his services and no notice in the prescribed manner was ever served to the appropriate Government as laid down in section 25-F(c).

MW-2 and MW-3, who were the witness of the respondent society and, who were holding a key post in the society at that time has stated on oath before this Court that some juniors to this workman in the same category were not retrenched at that time and out of the retrenched person one or two have been re-appointed in the society. This also clearly shows that the management has violated the principle and rules laid down under section 25-G and 25-H of the Industrial Disputes Act. From the above it has become very much clear that while retrenching the service of this workman by the management the condition precedent for an order of retrenchment under section 25-F of the Industrial Disputes Act has not been fulfilled. Hence the order of retrenchment is not effective at all and the same is *void ab initio* and the relationship between the employer and the employee is

not affected by such void retrenchment order and the employee continues to be in service despite the purported order of retrenchment, because order itself is illegal and invalid.

I do not feel necessary to consider other points as laid down by the Supreme Court in the *National Iron and Steel Co. (supra)*. Hence there is no need to decide the case issuewise. It is not necessary to decide the case whether the termination of service of the workman is justified or not, because the order of the termination is itself illegal and *void ab initio*. The dismissed or retrenched employee in this case is entitled to receive his wages on the basis that he continued in service all along. I answer this reference while returning this Award in these terms.

Dated the 24th October, 1979.

GURMESH PARKASH,
Presiding Officer,
Labour Court, Rohtak.

Endstt. No. 4027, dated the 20th November, 1979.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Department, Chandigarh, as required under section 15 of Industrial Disputes Act.

GURMESH PARKASH,
Presiding Officer,
Labour Court, Rohtak.

The 11th December, 1979.

No. 11(112)-3Lab-79/16176.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s. Glass Equipment (India) Ltd., Bahadurgarh:—

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA,
FARIDABAD.

Reference No. 210 of 1977.

between

THE WORKMEN AND THE MANAGEMENT OF
M/S. GLASS EQUIPMENT (INDIA) LTD.,
BAHADURGARH.

Present:

Shri Onkar Parshad, for the workman.

Shri Jagat Arora, for the management.

AWARD

1. By order no. 1D/RK/438-A-16/30127, dated 01 December, 1977 the Governor of Haryana referred the following dispute between the management of M/s Glass Equipment (India) Ltd., Bahadurgarh and its workmen, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the workman are entitled to the grant of bonus for the year 1975-76 and 1976-77. If so, with what details ?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed as follows on 20th October, 1978,—vide my order of the said date:—

- (1) Whether Hindustan National Glass Karamchari Sangh has *locus standi* to raise the dispute ?
- (2) Whether Shri Onkar Parshad is competent to pursue the case ?
- (3) Whether the settlements dated 10th February, 1977 and 19th July, 1978 are legal and valid in respect of the demand for bonus and are binding on the workmen ? If so, to what extent ?
- (4) Whether the workmen entitled to the grant of bonus for the year 1975-76 and 1976-77. If so, with what details ?

And interim order was given by me, dated 12th July, 1979 to try issues Nos. 1 and 3 as preliminary. Thereafter the management filed a settlement but the workman was not present, hence the case was adjourned and notices were sent to the workmen for 19th November, 1979 by registered A.D. Service had been effected but the workmen did not appear. It seems that the workmen have entered into the settlement with the management as stated by the management. I have gone through the settlement. It is just and fair. I, therefore, give my award in terms of the settlement as follows:—

- (1) That the settlement, dated 10th October, 1977 continues and is binding on the parties, except as hereinafter provided.
- (2) The workmen, who were on the rolls of the management on 14th July, 1978, shall be getting an ad hoc increase in the amount of their existed wages :
1st April, 1978 Rs. 30.

1st January, 1979 Rs. 10.

1st January, 1980 Rs. 5.

This shall be an ad-hoc payment in the payment register. For future entrants, this ad-hoc increase will be given to permanent workmen only on completion of one year's service. The management shall also pay as Ex-gratia payment to all the workmen, who have been on the rolls of the company on and from 1st April, 1978 till 14th July, 1978. Annexure A to the settlement dated 10th October, 1977 shall remain the same. New entrants employments after 14th July, 1978 will not be entitled to any ad hoc increase, nor the tradbe apprentices under the apprenticeship Act and trainees.

- (3) Bonus shall be paid as per the payment of Bonus Act.
- (4) The dispute as regards Gratuity shall be referred to the competent authority under the Act for clarification and shall be paid, as per the clarification, to those workmen, who leave after 19th July, 1978.
- (5) The management shall pay two days half wages which are not paid by the ESI.
- (6) The workmen shall also maintain highest level of discipline and productivity and shall also co-operate with the management in rationalisation, modernisation, mechanisation etc. to achieve best norms of production and productivity. The workmen shall also maintain discipline, industrial peace and harmony and shall work efficiently. The workmen shall not resort to any act of indiscipline and in contravention of the settlement and shall not adopt any unfair trade union activities. The workman shall not move out of their department without permission of their heads. The workmen shall also not raise any demand involving any financial burden or any implication on the company. All the existing demands and the demand,—vide demand notice dated 28th June, 1978 shall be deemed as fully settled. The settlement, dated 10th February, 1977 and the settlement dated 19th July, 1978 shall remain in force upto the year 1980. The workman have also agreed that the management may withdraw all or any of the benefits given to thtm under the settlement, dated 19th

July, 1978 if the workmen cause breach of clause 10 of the settlement, dated 19th July, 1978 and clauses 4 and 11' of the settlement, dated 10th February, 1977.

Dated the 30th November, 1979.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

Endorsement No. 1151, dated the 6th December, 1979.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

No. 11(112)-3 Lab-79/16179.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Amrit Lal Ajuja, c/o Delhi Pulp Industries, Faridabad :—

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL
HARYANA, FARIDABAD

Reference No. 309 to 313 of 1978

between

SMT. OM WATI, RAM BAI, THAKURI DEVI, PUSHPA, KEMI. WORKWOMEN AND THE MANAGEMENT OF M/S AMRIT LAL AJUJA C/O DELHI PULP INDUSTRIES, NEAR VILLAGE SARAN. NIT, FARIDABAD

Present :—

Shri Roshan Lal Sharma for the workwomen.

None for the management.

AWARD

1. This award shall dispose of reference Numbers 309, 310, 311, 312 and 313 all of 1978. By order No. ID/FD/97-78/35933, dated 2nd August, 1978. ID/FD/97-78/35927, dated 2nd August, 1978. ID/FD/97-78/35921, dated 2nd August, 1978, ID/

FD/97-78/35909, dated 2nd August, 1978 and ID/FD/97-78/35915, dated 2nd August 1978 the Governor of Haryana referred the following dispute between the management of M/s. Amrit Lal Ajuja c/o Delhi Pulp Industries, Near village, Saran, NIT, Faridabad and its workwomen Shrimati Om Wati, Ram Bai, Thakuri Devi, Pushpa, Kemi, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shrimati Om Wati, Ram Bai, Thakuri Devi, Pushpa and Kemi were justified and in order? If not, to what relief are they entitled?

2. On receipt of the order of reference, notices were issued to the parties. The workman had not given correct address of the management, so service was not effected. He was directed to accompany the process-server for effecting service on the management. But he could not get the service inspite of obtaining two more adjournments and on the third date fixed, neither the workman appeared, nor his representative. Formerly also only the representative for the workwomen had appeared and the workwomen had not appeared even for once. On 16th January, 1979 none appeared for the workwomen. The case had been called thrice and the same had been dismissed at 3-00 p.m. in default. Thereafter the representative for the workwomen filed an application to set aside the order of dismissal in default as he could not attend on that date in connection of some ceremony. The dismissal order was set aside and the case was fixed for 6th March, 1979. On 6th March, 1979 notices were again sent to the management for 18th April, 1979. It was again adjourned to 9th May, 1979 and then to 6th June, 1979. The management could not be served. It was again adjourned to 10th July, 1979. Then the representative for the workwomen requested for time for effecting service on the management. So it was adjourned to 8th August, 1979. It was again adjourned to 5th November, 1979 on the request of the representative for the workwomen. The representative

again obtained two more adjournments. It was again ordered that the workwomen could accompany the process-server and get the service effected on the management but to no effect. On 19th November, 1979 none appeared for the workwomen. At 1-00 p.m. the case was dismissed in default. In the circumstances, it seems that the workwomen is not taking any interest in her case. She has not appeared even once in this case and her representative obtained innumerable adjournments from the time the reference order was received in the office of the Tribunal in the month of August 1978 till 19th November, 1979 when it was dismissed in default. I, therefore, give my award that the termination of services of the workwomen were justified and in order. They are not entitled to any relief.

The 30th November, 1979.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

No. 1164, dated the 6th December, 1979.

Forwarded (four copies) to the secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

The 11th December, 1979

No. 11(112)-3 Lab-79/16190.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s. J. M. A. Industries Ltd., 14/6, Mathura Road, Faridabad:—

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL,
HARYANA FARIDABAL.
Complaint No. 6 & 7 of 1979

between
PUSHPA DEVI AND MADHU BALA
COMPLAINANTS AND THE RESPON-
DENT-MANAGEMENT OF M/S. J.M.A.
INDUSTRIES LTD. 14/6, MATHURA
ROAD, FARIDABAD.

Present :—

Shri P. K. De for the complainants.
Shri S. L. Gupta for the respondent-
management.

AWARD

1. The two worker ladies filed these complaints alleging contravention of section 33 of the Industrial Disputes Act on the ground that their services were terminated by the management unjustifiably during the pendency of a regular reference. Notice of the complaint were sent to the management-respondent. Both parties appeared and filed their pleadings. The following issues were framed on 23rd June, 1979:—

1. Whether the management had contravened the provisions of section 33? If so, to what effect?
2. Relief.

2. And the case was fixed for the evidence of the workman complainant. Both of them examined themselves as WW-1 and WW-2 and closed their case. Then the case was fixed for the evidence of the management respondent, who examined Shri N. D. Gupta, their Personnel Officer as MW-1 and closed their case. Then the case was fixed for arguments. Arguments have been heard. The representative for the workman argued that there was a breach of section 33 inasmuch as the management terminated their service during the pendency of a regular dispute and has not applied under section 33-2(b). He further argued that one month's notice wage and other requirements for terminating the services have not been complied with, hence the complaint is valid and the workman should be reinstated and the complaint be treated as regular reference. The representative for the management argued that application under section 33-2(b) has been filed by the management and were pending. On 15th November, 1979 they agreed that the application under section 33-2(b) may be consolidated with these complaints, so

these applications were consolidated but after that the representative for the management stated that the complaint was at the stage of arguments and these applications are still at initial stage, when evidence of the first party had yet to begin. Hence he again prayed that the application under section 33-2(b) may not be consolidated with these complaints. Then the application under section 33-2(b) were fixed for consolidation on 19th November, 1979. On 19th November, 1979 the representative for the workman expressed his inability to argue and prayed that arguments be heard on next date i.e. 20th November, 1979, which were then heard on that date i.e. 20th November, 1979.

3. When the management moved application under section 33-2(b), which are pending before this Tribunal, there is no contravention of section 33 and the complaints do not lie. As far as the requirement of sections 33-2(b) are concerned that shall be gone into in those applications. If the management proves that they have fulfilled those requirements, approval may be granted to them after proof of misconduct on the part of the workman, and if misconduct on the part of the workman is not proved and requirements of section 33-2(b) are found to have been not fulfilled, approval may be rejected.

4. I, therefore, proceed with the applications under section 33-2(b) of the Industrial Disputes Act filed by the management and which are pending, and fix these applications for further proceedings and deconsolidate these applications as had been previously consolidated with these complaints, and order that the file of these two applications bearing number 48 and 49 of 1979 be removed from the file of these complaints.

5. As far as these complaints are concerned, breach of section 33 of the Industrial Disputes Act is not found on the part of the management. The question of section under section 33 shall also be gone into in the applications under section 33-2(b) of the Industrial Disputes Act. I, therefore, dismiss these complaints as not maintainable, as there was

no contravention of section 33, because the management had already filed applications under section 33-2(b). These complaints have been dismissed on the ground of absence of technical grounds and do not affect merits of dismissal and compliance or non-compliance of requirements of section 33-2(b). As there was no breach of section 33, I did not and do not treat these complaints as regular references. This order shall not bar any regular reference.

The 29th November, 1979.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal Haryana,
Faridabad.

No. 1152, dated 6th December, 1979.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments Chandigarh as required under the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal Haryana,
Faridabad.

The 13th December, 1979.

No. 11(112)-3Lab-79/16304.—In pursuance of the provision of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s. Universal Electric Ltd., 20/3 Mathura Road, Faridabad.

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA,
FARIDABAD.

Reference No. 46 of 1978.

between

SHRI PHULESHWAR SINGH, WORKMAN
AND THE MANAGEMENT OF M/S.
UNIVERSAL ELECTRICS LIMITED (MUJASAR
DIVISION), 20/3 MATHURA ROAD,
FARIDABAD.

Present:

Shri Darshan Singh, for the workman.
Shri D. C. Bhardwaj, for the management.

AWARD

1. By order No. ID/FD/672-77/8045, dated 20th February, 1978 the Governor of Haryana referred the following dispute between the management of M/s. Universal Electrics Limited (Mujesar Division), 20/3 Mathura Road, Faridabad, and its workman Shri Phuleshwar Singh, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act :—

Whether the termination of services of Shri Phuleshwar Singh, was justified and in order? If not, to what relief is he entitled?

2. On receipt of the order of references, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 26th June, 1978:—

- (1) Whether the workman resigned his job?
- (2) If issue No. 1 is not proved, whether termination of services of the workman is justified and in order? If not, to what relief is he entitled?
- (3) Whether the workman had left the services of the company voluntarily?
- (4) Whether the management struck off the rolls the name of workman justifiably?

3. And the case was fixed for the evidence of the management. The management examined Shri P. S. Divedi, their Personnel Officer as MW-1, Shri Hardayal Singh Painter, Examiner of questioned Documents as MW-2 and closed their case. Then the case was fixed for the evidence of the workman who examined Shri Lal Bahadur Singh as WW-1, himself as WW-2 and prayed for adjournment for his remaining evidence. He obtained four adjournments but produced no evidence. On the 5th adjournment, i.e. 12th June, 1979 his evidence was closed. Then the case was fixed for arguments. Arguments have been heard. I have gone through the entire evidence on the file oral as well as documentary and give my findings issueswise:

ISSUE No. 1:

MW-1 proved Exhibit M-1 to Exhibit M-12. In cross-examination he stated that the workman resigned on 29th October, 1976 and his resignation was accepted on 30th October, 1976 which was communicated to him by ordinary post. Exhibit M-10 the resignation was given to the

management by the workman personally. He also produced original Money order coupon Exhibit M-13. The Money order was delivered to the Mother of the workman. He also stated that the workman did not approach the management for joining duty, nor the management received any communication from the Government for reinstatement of the workman on the ground that he was detained under Misa. They did not receive any letter from the Labour Department also. The Money order was for full and final settlement. He did not know that the workman was arrested under Misa. This came to his knowledge by the statement of the claim filed by the workman. He further deposed that his name was struck off for his long absence, as per the Standing Orders. MW-2 is Hand writing expert. He was formerly posted in Punjab CID as an Expert at Phillaur in Scientific Laboratory. He retired in 1969. He had examined about 30,000 cases. He compared the disputed signatures of the workman on his resignation, with admitted signatures on the acceptance of the appointment letter and with verification on primary objection, his application on 7th September, 1975 and demand notice dated 19th July, 1977 and payment cards marked A-5 and A-6 and on a certificate marked A-7. He gave his opinion on the disputed signatures on the resignation that they were written by the same person whose signatures appears on marked A-1 to M-7. He proved his report Exhibit M-14 which contained detailed reasons for his opinion which was to be read as part of his statement. He also proved the enlarged photograph Exhibit M-15 to M-20 and the negatives which were in cover marked Exhibit M-21. He found 18 points of similarity in the disputed and admitted signatures. Points of dissimilarity which might be two to four were due to natural variations. He denied the suggestion that his opinion is based under the influence of the management. He further stated in cross-examination that he gave opinion against the parties also calling him for comparison. He gave instances of Bank Van Robbery case and of assault against the Hon'ble the Chief Justice of India. He had never followed the result of his opinion given in courts.

4. WW-1 stated that the workman was arrested on 4th October, 1975 at 10.00 a.m. under D.I.R. and was released on 13th July, 1976. He came to the factory but the factory did not give him employment. He stated that the management told him to bring a Jail certificate. He was then again arrested on 3rd October, 1976 and released on 24th February, 1977. He had received

certificate from the Jail authorities. The workman again went to the factory but was not given work. In cross-examination he stated that he was a real brother of the workman. He admitted the name of his father as Shri Damodar Singh and of his mother as Smt. Umdha Devi. He could not say whether the signatures of his mother appeared on Exhibit M-9 as he had never seen her signing. He also could not say whether she could write in Hindi and could sign or not. He denied that there was such person in their village as Nagasher Singh, nor he knew any Doctor named Shri C. C. Manjumdar at Laharia Sarai which is at a distance of 1½ miles from his village. He could not say regarding telegram Exhibit M-1 to M-3. He further stated that the workman was never sick from September, 1976 to January, 1976 and the workman was doing nothing during this period. The workman was busy in getting the certificate. He also stated that the other witness who might appear after him belonged to his village as he had seen him outside the court room.

5. WW-2 the workman concerned stated that he had gone on leave for two months from 10th September, 1975 to 14th November, 1975 to his native place Singwara. He was arrested on 1st October, 1975 and released on 13th July, 1976. He came to Faridabad factory on 20th July, 1976. The management did not take him on duty. He went to the Labour Inspector to issue notice to the management. The management told to bring a certificate from Jail authorities. He then went to bring their certificate but he was again arrested and was released on 24th February, 1977. He got the Jail certificate on 30th October, 1977. He produced the copy of F.I.R. Exhibit W-3, a certificate of the order of Sessions Judge Exhibit W-4. The management did not give him work. Then he wrote letters to Shri Dharamvir M.P. and to the Labour Minister by registered A.D. He proved Exhibit W-7 to Exhibit W-22. He denied that Exhibit M-5 was sent by him. He admitted that he did not send any medical certificate to the management. He also denied to have sent telegram and Exhibit MW-1 to W-3. He denied the resignation. He denied his signatures on Exhibit M-10. He stated that he was in Jail on 29th October, 1976 and stated that the management had obtained signatures of workman on blank papers. He denied his knowledge of Doctor Manjumdar. He could not say his mother could write Hindi or not. He never saw her mother signing. He admitted that his brother and parents used to meet him while he was in jail but at a distance of hundred yards. They had no dialogue or negotiations. He had

no grievances in Jail. He admitted that he did not write any letter to the management informing MW-3. He denied the resignation. He denied write after release but there was no need. He has reported for duty. He admitted his signatures on Exhibit MW-4. He told that 1st January, 1972 is mentioned on Exhibit W-22 by typing error. It should be 1st January, 1971. He also admitted the signatures on Exhibit W-22. He denied that he was working in Bihar Paper Mills, during the months of his absence. His mother never told him that the management had sent Money order. He further stated that his parents did not inform him about the receipt of letters from the management. He admitted his signatures on Exhibit M-11 and M-12.

6. Exhibit M-13 is the receipt of Money order signed by to his mother Umdha Devi. The amount has been received by one Nageshar Singh. It was sent by the management. Exhibit M-19 is a circular from the Government of India to all States Labour Secretaries that wrongs done in emergency may be corrected including discharge or dismissal from service by the employer due to absence. It further proved reinstatement treating the intervening period as on duty for the purposes of increments and retired benefits. Exhibit W-2 is also a circular for the review of past cases. Exhibit W-21 is letter from the Conciliation Officer to the workman as well as the management. Exhibit M-4 is a letter from the workman to the management an admitted document, asking the management to issue him an experience certificate before 14th September, 1975 as he shall be going on leave on 15th September, 1975. Exhibit W-22 is demand notice reading that the workman was detained under D.I.R. Exhibit M-10 is a resignation letter of the workman. The workman did not admit his signatures on it but the Handwriting Expert has given his opinion that the signatures of the workman appeared on this document. MW-2 is a retired Government Officer who had worked in Punjab C.I.D. Scientific Laboratory at Phillaur which is a Government Laboratory. He had appeared in about 30,000 cases. He gave his opinion against the party calling him in the case "Bank Van Robbery case" and assault against the Hon'ble Chief Justice of India. His opinion cannot be brushed aside lightly. He has given the detailed reasons of his opinion in his report. The workman received employment certificate also from the management. Exhibit M-11, M-12 are the details of payment to the workman. The workman has signed on the receipt on revenue

stamp. Here he has used "F" in his signatures, whereas in statement of claim and other documents filed before this Tribunal, he has used "Ph" in the commencement of his signatures. His signatures on Exhibit M-10—the resignation he has also commenced his signatures with letter "F". Exhibit M-4 is the report of the Handwriting Expert which stands unassailed. Exhibit M-15 to Exhibit M-20 are the enlarged photographs. The disputed and admitted signatures and Exhibit M-21 contains the negatives. Exhibit MW-1 is a telegram from the workman to the management informing them that the workman was suffering from Jaundice and prayed for extension of leave after 15th January, 1976. Exhibit MW-2 is another telegram from the workman. Exhibit MW-3 is another telegram from the workman to the management praying for extension. Telegram Exhibit MW-3 bears the date 13th November, 1975. Exhibit MW-2 the telegram, bears the date 10th January, 1976 and the telegram Exhibit MW-1 bears the date 1st January, 1976. All the dates are in the seals of the Post Office. Exhibit W-1 is letter to the Labour Inspector that he was arrested on 4th October, 1975 and was released on 13th July, 1976 and the management did not take him on duty. Exhibit W-2 is certificate from the Superintendent Jails Dharbanga, stating that he was in Jail from 4th October, 1975 and was released on 13th July, 1976. He again was in Jail from 3rd October, 1976 to 24th February, 1977 under the D.I.R. Exhibit W-6 is a letter from the workman to the Hon'ble M.P. reading that he came from Jail after release on 26th October, 1977. Exhibit W-8 is a letter to the Hon'ble the Labour Minister, Haryana/Chandigarh sent by postal receipt,—vide Exhibit W-17. Exhibit W-9 is a copy of letter from the Assistant Director Labour (Central) to the Labour Commissioner, Chandigarh. Exhibit W-10 is a letter from the workman to the Labour Commissioner. Exhibit W-11 is also some copy mostly illegible. Similarly Exhibit W-12 is a letter from the workman to the Labour Minister and the Labour Commissioner Haryana. There are ten tickets of Haryana Roadways for riding in the bus. Ex. W-13 is A.D. addressed to the Labour Commissioner, Ex. W-14 is addressed to the Labour Minister. Then again there are Haryana Roadway's tickets. There are three slips of reception granted to the workman for visiting some officers Ex. W-18 is a letter from the Hon'ble the M.P. Shri Surinder Jha Suman. Ex. W-4 is a copy of the order of Sessions Judge together with copy of petition rejecting the bail. It is dated 18th January, 1976. Similar is a copy of

Chief Judicial Magistrate. Ex. MW-4 is appointment letter dated 1st January, 1973, appointing the workman concerned on probation for a period of six months. Ex. M-5 is a certificate from a Doctor bearing his registration number as 2537, dated 27th November, 1975 that the workman was suffering from fever, Bronchitis and irregular Bowels since 10th November, 1975.

The evidence shows that the workman sent medical certificate to the management dated 27th November, 1975 and also sent telegram Ex. MW-1 to MW-3. These documents cannot be fabricated. Moreover the jail certificate that the workman was in Jail from 4th October, 1975 to 13th July, 1976. It was incumbent for the workman to report for duty two-three days after he was released but he did not report for duty. He was again in jail from 3rd October, 1976 to 14th February, 1977. His letter to the Labour Inspector is dated 30th July, 1976. But Labour Inspector or any clerk of his office was summoned to prove the proceedings of this complaint. When he was again released from jail on 24th February, 1977, he did not report for duty for a pretty long time. His letter to the Hon'ble the M.P. bears the date 25th November, 1977. According to the case of the workman as per his statement as MW-2, it cannot be proved that the workman was busy in getting jail certificates throughout from 13th July, 1976 to 3rd October, 1976. It cannot take two months and twenty-one days in obtaining a certificate. He was again arrested on 3rd October, 1976 and was released on 24th February, 1977. If the period during which he remained in jail is excluded from the total period of absence, even then he has taken months and months in reporting for duty. His going to the factory on 20th July, 1976 is not proved. Moreover a period of seven days cannot be taken in journey from his village to Faridabad. It might take two or three days maximum. He has again stated that he was released from jail the 2nd time on 24th February, 1977 but could get jail certificate on 30th October, 1977. It is unbelievable that he could take eight months and four days in getting that certificate. According to the workman he was asked to give jail certificate after he was released from jail on 13th July, 1976, when he was again arrested on 3rd October, 1976 and was in jail upto 24th February, 1977, he knew fully well that the management shall require jail certificate. He could have

obtained the jail certificate in about a week the maximum, but it could not take eight months and four days in getting the said jail certificate. The resignation letter is dated 29th October, 1976 whereas he was in jail from 3rd October, 1976 to 24th February, 1977. As per hand writing expert his signatures on it are of the workman, but it is impossible that the workman might have submitted his resignation on 29th October, 1976, while he was in jail. Experience certificate granted to the workman is dated 11th September, 1975. On that day he was on leave and was not in jail. It was impossible that the resignation Ex. M-10 could have been given by the workman personally to the management. I, therefore, decide issue No. 1 against the management holding that the workman did not resign, although his signatures might appear on it.

ISSUE No. 3 :

Before deciding issue No. 2 and 4, decision on issue No. 3 is proper. The management struck off the name of the workman on 29th December 1975. The workman has admitted that he did not inform the management that he was in jail and therefore, the management struck off his name on 29th December, 1975, while the workman was in jail. But the absence of the workman from 13th July, 1976 to 3rd October, 1976 and after 14th February, 1977, covering a long period has not been explained, nor such a long absence can be explained. The workman himself has stated that he was released from jail on 24th February, 1977, and then he tried to get jail certificate but received it on 30th October, 1977, i.e. after eight months and four days. It is proved that the workman did not report for duty from 24th February, 1977 to 30th October, 1977 and remained absent for eight months and four days. Getting jail certificate can hardly take a week or two, not more. It means that the workman tried to obtain jail certificate just in the month of October, 1977 and remained idly absent for seven months. It seems that when the workman came to know of the Government circulars regarding emergency for reconsideration of cases he sent his demand notice, dated 19th November, 1977. His demand notice is also much late after when he was released from jail finally the 2nd time on 24th February, 1977.

The application of the workman to the management for granting him experience certificate, which was granted to him on 11th September, 1975 explains that the workman was in mood

to leave the services of the management. He had proceeded on leave,—vide his application dated 9th September, 1975 and he wanted certificate before he proceeded on leave and this application is admitted by the workman. It seems that the workman had some apprehensions during emergency period and he wanted to leave this place. The statement of the workman that he worked in Bihar Paper Mills, also confirms the same. His absence from 24th February, 1977 till 30th October, 1977 also leads to infer that the workman had left the service of the management by his own conduct and he intended to leave this service. Moreover the workman did nothing during the period of his absence from 24th February, 1977 to 30th October, 1977 i.e. during this period of eight months and four days by which it could be shown that he had no idea to leave the service. His letter to the Labour Inspector is also dated 4th November, 1977. There is ample proof on the file of this case by which it can be inferred that the workman had intention to leave the service of the management and left it. The telegrams, which pertain to the period while the workman was in jail for the first time also were sent between 13th November, 1975 and January, 1976. I, therefore, decide issue No 3 in favour of the management.

ISSUE No. 4 :

As the workman remained absent for long and the management had no information about his detention in jail, the management was within their rights to struck off the name of the workman from their rolls as per their Standing Orders. The period of absence was also much longer. If a workman does not turn up on duty for long, atleast his name shall be struck off some day or shall not be carried forward some days. In these circumstances striking off the name is not of much importance, as it is a result of long absence and a natural consequence of long absence without any just cause. I, therefore, decide issue No. 4 in favour of the management.

ISSUE No. 2 :

From a detailed discussions of the evidence heretofore and my findings on the above issues, I hold that the management did not terminate the services of the workman, rather the workman left his services of his own by remaining absent for a considerable long time without any just cause or reasons. The inference of leaving the services on the part of the workman has been

drawn based on the evidence. This issue is decided accordingly.

No. 1170, dated 7th December, 1979.

In the result, while answering the reference, I give my award that the workman left his services of his own by his own conduct as per the Standing Orders of the management and the management did not terminate the services of the workman. The workman is not entitled to any relief.

Dated the 29th November, 1979.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

Forwarded. (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

The 11th December, 1979

No. 11(112)-3Lab-79/16175.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s. High Polymer, Lab. Sector 25, Ballabgarh.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD.

Reference No. 208 of 1979

between

SHRI RAVINDER SINGH, WORKMAN AND THE MANAGEMENT OF M/S. HIGH
POLYMER LABS, SECTOR-25, BALLABGARH

Present.—

Workman in person.
Shri R. C. Sharma, for the management.

AWARD

1. By order No. 44-79/32486, dated 17th July, 1979, the Governor of Haryana referred the following dispute between the management of M/s. High Polymer Lab's Sector-25, Ballabgarh and its workman Shri Ravinder Singh, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 ;

Whether the termination of services of Shri Ravinder Singh was justified and in order ? If not, to what relief is he entitled ?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared. The dispute was settled. The settlement was produced before this Tribunal which is Ex. MW-1. The workman was treated by the management as retrenched with effect from 6th September, 1979. A payment of Rs. 750/- was made to the workman by the management as detailed in Ex. MW-1. The workman shall have no right to reinstatement or re-employment as agreed to. The amount has been received by the workman.

Dated the 30th November, 1979.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 1163, dated the 6th December, 1979

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.